

conclusions of law, and order, together with a supporting brief expressing the reasons for such proposals. Such proposals and brief shall be served on all parties, and shall refer to all portions of the record and to all authorities relied upon in support of each proposal.

(b) *Decision of the Administrative Law Judge.* Within 60 days after the time allowed for filing of proposed findings of fact, conclusions of law, and order, or within 30 days after receipt of an agreement containing consent findings and order disposing of the disputed matter in whole, the Administrative Law Judge shall make his/her decision. If any aggrieved party desires review of the decision a petition for review thereof shall be filed as provided in § 6.45 of this title, and such decision and order shall be inoperative unless and until the Administrative Review Board issues an order affirming the decision. The decision of the Administrative Law Judge shall include findings of fact and conclusions of law, with reasons and bases therefor, upon each material issue of fact, law, or discretion presented on the record. Such decision shall be in accordance with the regulations and rulings contained in parts 4 and 5 and other pertinent parts of this title. The decision of the Administrative Law Judge shall be based upon a consideration of the whole record, including any admissions made in the respondents' answer (response) and § 6.43 of this title.

§ 6.45 Petition for review.

Within 30 days after the date of the decision of the Administrative Law Judge, any party aggrieved thereby who desires review thereof shall file a petition for review of the decision with supporting reasons. Such party shall transmit the petition in writing to the Administrative Review Board pursuant to 29 CFR part 8 if the proceeding was under the Service Contract Act, or to the Administrative Review Board pursuant to 29 CFR part 7 if the proceeding was under § 5.12(a)(1) of part 5 of this title or under section 3(a) of the Davis-Bacon Act, with a copy thereof to the Chief Administrative Law Judge. The petition for review shall refer to the specific findings of fact, conclusions of law, or order at issue.

§ 6.46 Ineligible list.

Upon the final decision of the Administrative Law Judge, Administrative Review Board, as appropriate, the Administrator promptly shall forward to the Comptroller General the names of any firm, corporation, partnership, or association in which a person or firm debarred pursuant to section 5(a) of the Service Contract Act or § 5.12(a) of part 5 of this title has a substantial interest; and/or the name of any firm, corporation, partnership, or association in which a person or firm debarred pursuant to section 3(a) of the Davis-Bacon Act has an interest.

Subpart E—Substantial Variance and Arm's Length Proceedings

§ 6.50 Scope.

This subpart supplements the procedures contained in §§ 4.10 and 4.11 of part 4 of this title and states the rules of practice applicable to hearings under section 4(c) of the Act to determine whether the collectively bargained wages and/or fringe benefits otherwise required to be paid under that section and sections 2(a)(1) and (2) of the Act are substantially at variance with those which prevail for services of a character similar in the locality, and/or to determine whether the wages and/or fringe benefits provided in the collective bargaining agreement were reached as a result of arm's-length negotiations.

§ 6.51 Referral to Chief Administrative Law Judge.

(a) Referral pursuant to § 4.10 or § 4.11 of part 4 of this title will be by an Order of Reference from the Administrator to the Chief Administrative Law Judge, to which will be attached the material submitted by the applicant or any other material the Administrator considers relevant and, for proceedings pursuant to § 4.11 of this title, a copy of any findings of the Administrator. A copy of the Order of Reference and all attachments will be sent by mail to the following parties: The agency whose contract is involved, the parties to the collective bargaining agreement, any

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contractor or subcontractor performing on the contract, any contractor or subcontractor known to be desirous of bidding thereon or performing services thereunder who is known or believed to be interested in the determination of the issue, any unions or other authorized representatives of service employees employed or who may be expected to be employed by such contractor or subcontractor on the contract work, and any other affected parties known to be interested in the determination of the issue. The Order of Reference will have attached a certificate of service naming all interested parties who have been served.

(b) Accompanying the Order of Reference and attachments will be a notice advising that any interested party, including the applicant, who intends to participate in the proceeding shall submit a written response to the Chief Administrative Law Judge within 20 days of the date on which the certificate of service indicates the Order of Reference was mailed. The notice will state that such a response shall include:

(1) A statement of the interested party's case;

(2) A list of witnesses the interested party will present, a summary of the testimony each is expected to give, and copies of all exhibits proposed to be proffered;

(3) A list of persons who have knowledge of the facts for whom the interested party requests that subpoenas be issued and a brief statement of the purpose of their testimony; and

(4) A certificate of service in accordance with § 6.3 of this title on all interested parties, including the Administrator.

§ 6.52 Appointment of Administrative Law Judge and notification of prehearing conference and hearing date.

Upon receipt from the Administrator of an Order of Reference, notice to the parties, attachments and certificate of service, the Chief Administrative Law Judge shall appoint an Administrative Law Judge to hear the case. The Administrative Law Judge shall promptly notify all interested parties of the time and place of a prehearing conference

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and of the hearing which shall be held immediately upon the completion of prehearing conference. The date of the prehearing conference and hearing shall be not more than 60 days from the date on which the certificate of service indicates the Order of Reference was mailed.

§ 6.53 Prehearing conference.

(a) At the prehearing conference the Administrative Law Judge shall attempt to determine the exact areas of agreement and disagreement raised by the Administrator's Order of Reference and replies thereto, so that the evidence and arguments presented at the hearing will be relevant, complete, and as brief and concise as possible.

(b) Any interested party desiring to file proposed findings of fact and conclusions of law shall submit them to the Administrative Law Judge at the prehearing conference.

(c) If the parties agree that no hearing is necessary to supplement the written evidence and the views and arguments that have been presented, the Administrative Law Judge shall forthwith render his/her final decision. The Administrative Law Judge with the agreement of the parties may permit submission of additional written evidence or argument, such as data accompanied by affidavits attesting to its validity or depositions, within ten days of commencement of the prehearing conference.

§ 6.54 Hearing.

(a) Except as provided in § 6.53(c) of this title, the hearing shall commence immediately upon the close of the prehearing conference. All matters remaining in controversy, including the presentation of additional evidence, shall be considered at the hearing. There shall be a minimum of formality in the proceeding consistent with orderly procedure.

(b) To expedite the proceeding the Administrative Law Judge shall, after consultation with the parties, set reasonable guidelines and limitations for the presentations to be made at the hearing. The Administrative Law Judge may limit cross-examination and may question witnesses.